

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 24-CR-3052-LTS-KEM

vs.

DANIEL LUCIUS SMITH,

Defendant.

**REPORT AND
RECOMMENDATION**

The indictment in this case charges Defendant Daniel Lucius Smith with possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1). Doc. 3. Smith moves to dismiss the indictment (Doc. 22), arguing that the charges violate his Second Amendment rights facially and as applied under the Supreme Court's decision in *New York State Rifle & Pistol Association v. Bruen*.¹ Smith acknowledges that this court must deny his motion under binding Eighth Circuit precedent,² and he simply seeks to preserve his argument for appellate review. The Government filed a resistance. Doc. 25.

The court recommends **DENYING** Smith's motion to dismiss (Doc. 22).

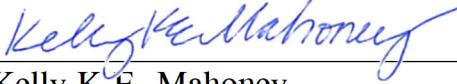
Objections to this Report and Recommendation, in accordance with 28 U.S.C. § 636(b)(1), Federal Rule of Criminal Procedure 59(b), and Local Criminal Rule 59, must be filed within fourteen days of the service of a copy of this Report and Recommendation; any response to the objections must be filed within seven days after service of the objections. A party asserting such objections must arrange promptly for

¹ 597 U.S. 1 (2022).

² *United States v. Cunningham*, 114 F.4th 671 (8th Cir. 2024) ("[T]here is no need for felony-by-felony determinations regarding the constitutionality of § 922(g)(1) as applied to a particular defendant.").

the transcription of all portions of the record that the district court judge will need to rule on the objections. Objections must specify the parts of the Report and Recommendation to which objections are made, as well as the parts of the record forming the basis for the objections. Failure to object to the Report and Recommendation waives the right to de novo review by the district court of any portion of the Report and Recommendation, as well as the right to appeal from the findings of fact contained therein.

SO ORDERED on February 20, 2025.



Kelly K.E. Mahoney
Chief Magistrate Judge
Northern District of Iowa